UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,014	03/21/2001	A. Demetrius Brown	29983/36943	2987

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EXAMINER
SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/814,014	BROWN ET AL.
	Examiner	Art Unit	
	Cristina Owen Sherr	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _11 April 2005_.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-68_ is/are pending in the application.

    4a) Of the above claim(s) _11-13,16,27-29,32,37-39,43,44,53,54 and 57-68_ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-10,14,15,17-26,30,31,33-36,45-52,55 and 56_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This communication is in response to the applicant's amendment filed April 11,

2005. Claims 1, 19, 33, 34, and 49 have been amended. Claims 11-13, 16, 27-29, 32,

37-39, 43-44, 53-54, and 57-68 have been canceled. Claims 1-10, 14-15, 17-26, 30-31,

33-36, 45-52, and 55-56 are currently pending in this case.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April

11, 2005 has been entered.

Response to Arguments

3.   Applicant's arguments with respect to claims 1-10, 14-15, 17-26, 30-31, 33-36,

45-52, and 55-56 have been considered but are moot in view of the new ground(s) of

rejection.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1-10, 14-15 and 17-18 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Popolo (US 5,715,402).

6.   Regarding claim 1 –

Popolo discloses a method of exchanging metals comprising the steps of receiving a

first user name and a first password from a metal seller; verifying the first user name

and the first password against a database of authorized users; receiving metal

identification information from the metal seller, the metal identification information

including a metal type, a metal weight, and a price; receiving a second user name and a

second password from a metal buyer; verifying the second user name and the second

password against the database of authorized users; determining if a preexisting credit

relationship exists between the metal buyer and the metal seller and providing a

payment guarantee; transmitting a hyperlink to a metals exchange web page to the

metal buyer, the metals exchange web page including the metal identification

information and an icon if a preexisting credit relationship exists between the metal

buyer and the metal seller, the web page being a metals hedging web page or a

logistics web vase; and transmitting a purchase selection to the metal buyer for a

FAS133 compliant derivative contract (e.g. col 1 ln 45 – col 2 ln 12).

7.   Although Popolo does not specifically FAS133 compliant contracts, this is merely

nonfunctional data. It would be obvious to exchange the sales contract in Popolo to any

other style sales contract.

8.   Regarding claim 2 –

Popolo discloses a method of exchanging metals as defined in claim 1, wherein the step

of transmitting a metals exchange web page to the metal buyer comprises the step of

transmitting a positive icon if a preexisting credit relationship exists between the metal

buyer and the metal seller (e.g. col 5 ln 10-25).

9.   Regarding claim 3 –

Popolo discloses a method of exchanging metals as defined in claim 1, wherein the step

of transmitting a metals exchange web page to the metal buyer comprises the step of

transmitting a negative icon if a preexisting credit relationship does not exist between

the metal buyer and the metal seller (e.g. col 5 ln 10-25).

10.   Regarding claim 4 –

Popolo discloses a method of exchanging metals as defined in claim 1, determining if a

bilateral credit relationship exists between the metal buyer and the metal seller (e.g. col

5 ln 30-38).

11.   Regarding claim 5 –

Popolo discloses a method of exchanging metals as defined in claim 1, wherein the step

of transmitting a metals exchange web page to the metal buyer comprises the step of

making the metal seller anonymous to the metal buyer (e.g. col 5 ln 1-5).

12.   Regarding claims 6 –

Popolo discloses a method of exchanging metals as defined in claim 1, wherein the

providing of the Payment guarantee comprises the step of receiving credit relationship

information from the metal seller, the credit relationship information identifying a metal

buyer and a credit threshold (e.g. col 6 ln 20-40).

13.   Regarding claim 7 –

Popolo discloses a method of exchanging metals as defined in claim 6, further

comprising the steps of: maintaining a current credit balance between the metal buyer

and metal seller, and determining if processing a purchase associated with the metal

identification information by the metal buyer would exceed the credit threshold of the

preexisting credit relationship between the metal buyer and the metal seller (e.g. col 6 ln

20-45).

14.   Regarding claim 8 –

Popolo discloses a method of exchanging metals as defined in claim 7, wherein the step

of transmitting a metals exchange web page to the metal buyer comprises the step of

making the metal seller anonymous to the metal buyer (e.g. col 6 ln 20-45).

15.   Regarding claim 9 –

Popolo discloses a method of exchanging metals as defined in claim 1, further

comprising the steps of receiving a metal chemistry composition from the metal seller

and transmitting the metal chemistry composition to the metal buyer (e.g. col 5 ln 25-

45).

16.   Regarding claim 10 –

Popolo discloses a method of exchanging metals as defined in claim 1, further

comprising the step of transmitting metal exchange transaction information to a plurality

of registered users to provide price transparency, the metal exchange transaction

information including a plurality of metal lot records, each metal lot record including a lot

type, a lot quantity, a lot price, and an exchange date. (e.g. col 4 ln 10-30).

17.   Regarding claim 14 –

Popolo discloses a method of exchanging metals further comprising the step of

performing a portfolio valuation (e.g. col 2 ln 1-10).

18.   Regarding claim 15 –

Popolo discloses a method of exchanging metals further comprising the step of

performing a mark to market determination (e.g. col 3 ln 5-15).

19.   Regarding claim 17 –

Popolo discloses a method of exchanging metals further comprising the step of

providing a financing option (e.g. col 4 ln 20-45).

20.   Regarding claim 18 –

Popolo discloses a method of exchanging metals further comprising the step of

providing a weighted average price index based on the plurality of exchanges (e.g. col 4

ln 35-45).

21.   Claims 19-26, 30-31, and 33 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Popolo (US 5,715,402).

22.   Regarding claim 19 –

Popolo discloses a method of exchanging metals comprising the steps of receiving a

first user name and a first password from a metal seller; verifying the first user name

and the first password against a database of authorized users; receiving metal

identification information from the first user, the metal identification information including

a metal type, a metal weight, a price, and a metal chemistry composition; receiving a

second user name and a second password from a metal buyer; determining if a

preexisting credit relationship exists between the metal buyer and the metal seller and

providing a payment guarantee; verifying the second user name and the second

password against the database of authorized users; and transmitting a first hyperlink to

metals exchange web page to the metal buyer, the web Rage being a metals hedging

web page or a logistics web page, and the metals exchange web page including the

metal type, the metal weight, the price, and a second hyperlink to a composition web

page, the composition web page including the metal chemistry composition; and

transmitting a purchase selection to the metal buyer for a FAS133 compliant derivative

contract (e.g. col 6 ln 20-45).

23.   Although Popolo does not specifically FAS133 compliant contracts, and only

steel rather than a variety of metals, this is merely nonfunctional data. It would be

obvious to exchange the sales contract in Popolo to any other style sales contract, and

for selling any kind of metal.

24.   Regarding claim 20 –

Popolo discloses a method of exchanging metals as defined in claim 19, further

comprising the steps of receiving a request for the composition web page from the

metal buyer and transmitting the metal chemistry composition to the metal buyer (e.g.

col 3 ln 20-30).

25.   Regarding claim 21 –

Popolo discloses a method of exchanging metals as defined in claim 20, wherein the

step of transmitting the metal chemistry composition to the metal buyer comprises the

step of transmitting a percentage of one of silicon, copper, magnesium, nickel, tin, lead,

iron, manganese, chromium, zinc, and titanium (e.g. col 5 ln 10-40).

26.   Regarding claim 22 –

Popolo discloses a method of exchanging metals as defined in claim 20, wherein the

step of transmitting the metal chemistry composition to the metal buyer comprises the

step of transmitting a percentage of two of silicon, copper, magnesium, nickel, tin, lead,

iron, manganese, chromium, zinc, and titanium (e.g. col 5 ln 40-50).

27.   Regarding claim 23 –

Popolo discloses a method of exchanging metals as defined in claim 20, wherein the

step of transmitting the metal chemistry composition to the metal buyer comprises the

step of transmitting a range for each of a plurality of elements from the periodic table of

elements (e.g. col 5 ln 20-35).

28.   Regarding claim 24 –

Popolo discloses a method of exchanging metals as defined in claim 19, further

comprising the steps of receiving a chemistry evaluation matrix from the metal buyer,

the chemistry evaluation matrix including a desired discount associated with a particular

metal percentage, and transmitting the chemistry evaluation matrix to the metal seller

(e.g. col 5 ln 20-35). .

29.   Regarding claim 25 –

Popolo discloses a method of exchanging metals as defined in claim 19, wherein the

step of transmitting a metals exchange web page to the metal buyer comprises the step

of making the metal seller anonymous to the metal buyer (e.g. col 5 ln 40-55).

30.   Regarding claim 26 –

Popolo discloses a method of exchanging metals as defined in claim 19, further

comprising the step of transmitting metal exchange transaction information to a plurality

of registered users to provide price transparency, the metal exchange transaction

information including a plurality of metal lot records, each metal lot record including a lot

type, a lot quantity, a lot price, and an exchange date (e.g. col 5 ln 20-35).

31.   Regarding claim 30 –

Popolo discloses a method of exchanging metals as defined in claim 19, further

comprising the step of performing a portfolio valuation (e.g. col 5 ln 50-65).

32.   Regarding claim 31 –

Popolo discloses a method of exchanging metals as defined in claim 19, further

comprising the step of performing a mark to market determination (e.g. col 5 ln 50-65).

33.   Regarding claim 33 –

Popolo discloses a method of exchanging metals as defined in claim 19, further

comprising the step of providing a financing option (e.g. col 5 ln 50-65).

34.   Claims 34-36, and 45-48 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Popolo (US 5,715,402).

35.   Regarding claim 34 –

Popolo discloses a method of exchanging FAS133 compliant derivative contracts for

metals, the method comprising the steps of: processing a plurality of exchanges of a

plurality metals between a plurality of metal buyers and a plurality of metal sellers,

comprising receiving of a metal chemistry composition from a particular seller in the

plurality of metal sellers and transmitting the metal chemistry composition to a particular

buyer in the plurality of metal buyers, and receiving of a metal chemistry composition

comprising receiving a range for each of a plurality of elements from the periodic table

of elements; providing a weighted average price index based on the plurality of

exchanges in compliance with FAS133 requirements for market-based pricing; and

facilitating a purchase of a FAS133 compliant derivative contract online including

maintaining anonymity of both a buyer associated with the purchase and a seller

associated with the purchase, and transmitting a hedging web page or a logistics web

page to the buyer: transmitting an icon indicative of a preexisting bilateral credit

arrangement between the buyer and the seller; and transmitting metal exchange

transaction information to a plurality of registered users to provide price transparency,

the metal exchange transaction information including a plurality of metal lot records,

each metal lot record including a lot type, a lot quantity, a lot price, and an exchange

(e.g. col 6 ln 20-45).

36.   Although Popolo does not specifically FAS133 compliant contracts, and only

steel rather than a variety of metals, this is merely nonfunctional data. It would be

obvious to exchange the sales contract in Popolo to any other style sales contract, and

for selling any kind of metal.

37.   Regarding claim 35 –

Popolo discloses a method of exchanging FAS 133 compliant derivative contracts as

defined in claim 34, further comprising the step of providing real time price adjustments

online, the real time price adjustments being based on a chemical composition

associated with a particular metal from the plurality metals (e.g. col 3 ln 10-20).

38.   Regarding claim 36 –

Popolo discloses a method of exchanging FAS133 compliant derivative contracts as

defined in claim 34, wherein the step of processing a plurality of exchanges of a plurality

metals_ between a plurality of metal buyers and a plurality of metal sellers comprises

the step of processing an exchange of a platinum group metal (e.g. col 3 ln 30-45).

39.   Regarding claim 45 –

Popolo discloses a method of exchanging FAS133 compliant derivative contracts as

defined in claim 34, further comprising the step of performing a portfolio valuation (e.g.

col 4 ln 45-60).

40.   Regarding claim 56 –

Popolo discloses a method of exchanging FAS133 compliant derivative contracts as

defined in claim 34, further comprising the step of performing a mark to market

determination (e.g. col 4 ln 45-60).

41.   Regarding claim 47 –

Popolo discloses a method of exchanging FAS133 compliant derivative contracts as

defined in claim 34, further comprising the step of providing a payment guarantee (e.g.

col 4 ln 45-60).

42.   Regarding claim 48 –

Popolo discloses a method of exchanging FAS 133 compliant derivative contracts as

defined in claim 34, further comprising the step of providing a financing option (e.g. col 4

In 45-60).

43.   Claims 49-52 and 55-56 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Popolo (US 5,715,402).

44.   Regarding claim 49 –

Popolo discloses a metals exchange server comprising: a network transmitter; a

network receiver; a memory device storing a software program and registered user

information; and a processor operatively coupled to the network transmitter, network

receiver, and memory device, the processor being structured to execute the software

program, the software program being structured to cause the processor to: (i) receive

login information from a metal seller and a metal buyer via the network receiver; (ii)

verify the login information matches the registered user information stored in the

memory device; (iii)receive metal identification information from the metal seller via the

network receiver, the metal identification information including a metal type, a metal

weight, and a price; (iv) store the metal identification information in the memory device;

(v) determine if a preexisting credit relationship exists between the metal buyer and the

metal seller using the registered user information stored in the memory device; and

(vi)transmit a metals exchange web page to the metal buyer via the network transmitter,

the metals exchange web page including the metal identification information and a

positive icon if a preexisting credit relationship exists between the metal buyer and the

metal seller, the metals exchange web page including the metal identification

information and a negative icon if a preexisting credit relationship does not exist

between the metal buyer and the metal seller; (vii) to cause the processor to transmit

metal exchange transaction information to a plurality of registered users via the network

transmitter to provide price transparency, the metal exchange transaction information

including a plurality of metal lot records, each metal lot record including a lot type a lot

quantity, a lot price, and an exchange date; and (viii) cause the processor to transmit a

hyperlink to web page via the network transmitter, the web page offering to sell at least

one of a metals hedging contract, a logistics contract, and a FAS133 compliant

derivative contract (e.g. col 6 ln 20-45).

45.   Although Popolo does not specifically FAS133 compliant contracts, and only

steel rather than a variety of metals, this is merely nonfunctional data. It would be

obvious to exchange the sales contract in Popolo to any other style sales contract, and

for selling any kind of metal.

46.   Regarding claim 50 –

Popolo discloses a metals exchange server as defined in claim 49, wherein the software

program is further structured to cause the processor to receive a credit limit associated

with the metal buyer from the metal seller via the network receiver (e.g. col 6 ln 20-45).

47.   Regarding claim 51 –

Popolo discloses a metals exchange server as defined in claim 50, wherein

the software program is further structured to cause the processor to maintain

a current credit balance between the metal buyer and metal seller and

determine if processing a purchase associated with the metal identification

information by the metal buyer would exceed the credit limit (e.g. col 6 ln 20-45).

48.   Regarding claim 52 –

Popolo discloses a metals exchange server as defined in claim 49, wherein the software

program is further structured to cause the processor to receive a metal chemistry

composition from the metal seller via the network receiver and transmit the metal

chemistry composition to the metal buyer via the network transmitter (e.g. col 6 ln 30-

40).

49.   Regarding claim 55 –

Popolo discloses a metals exchange server wherein the software program is further

structured to cause the processor to perform at least one of a portfolio valuation and a

mark to market determination (e.g. col 3 ln 5-15).

50.   Regarding claim 56 –

Popolo discloses, a metals exchange server as defined in claim 49, wherein the

software program is further structured to cause the processor to transmit at least one of

a payment guarantee to the metal seller and a financing option

to the metal buyer via the network transmitter (e.g. col 3 ln 60 – col 4 ln 5).

51.   Examiner's note: Examiner has cited particular columns and line numbers in

the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are

applied to the specific limitations within the individual claim, other passages and figures

may be applied as well. It is respectfully requested from the applicant, in preparing the

responses, to fully consider the references in entirety as potentially teaching all or part

of the claimed invention as well as the context of the passage as taught by the prior art

or disclosed by the examiner.

Conclusion

52.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

53.   Odom et al, (US 6,058,379) discloses a real-time network exchange with seller

specified exchange parameters and interactive seller participation.

54.   Annunziata (US 2001/0039530) discloses a trading simulation.

55.   Annunziata (US 2001/0034688) discloses a system for trading commodities and

the like.

55.   Heilman, Jr., (US 2001/0034689) discloses a method and system of negotiating a

transaction over a network.

56.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Cristina Owen Sherr whose telephone number is 571-

272-6711. The examiner can normally be reached on 8:30-5:00 Monday through

Friday.

57.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Trammell can be reached on 571-272-6712. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

58.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

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